

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LEVEY, et al

Plaintiffs

v

*

Civil Action No. 06-510 JJF

DELAWARE BAY LAUNCH SERVICE, *
et al..

Defendants

ANSWERTO THIRD-PARTY COMPLAINT

Third-Party Defendant, Southern Delaware Iowing & Salvage, Inc.. (hereafter "Southern Delaware"), by and through its undersigned counsel, answering the Ihird-Party Complaint filed by Defendant/Third-Party Plaintiff, Boat America Corporation (hereafter `Boat America"), says:

1 Answering paragraph 1 of the Third-Party Complaint, Southern Delaware is advised that the allegations contained therein constitute conclusions of law to which it need not respond.

2 Answering paragraph 2 of the Ihird-Party Complaint, Southern Delaware admits the allegations contained therein.

3 Answering paragraph 3 of the Third-Party Complaint, Southern Delaware admits the allegations contained therein.

Answering paragraph 4 of the Ihird-Party Complaint, Southern Delaware states that Paragraph 11 of the License/Service Agreement speaks for itself: However, to the extent that an Answer is required, Southern Delaware admits the allegations contained therein.

5. Answering paragraph 5 of the Third-Party Complaint, Southern Delaware states that Paragraph 6 of the License/Service Agreement speaks for itself. However, to the extent that an Answer is required, Southern Delaware admits the allegations contained therein.

6.. Answering paragraph 6 of the Third-Party Complaint, Southern Delaware denies the allegations contained therein.

7 Answering paragraph 7 of the Third-Party Complaint, Southern Delaware denies that Third-Party Plaintiff Boat America is entitled to contribution and/or indemnification from Southern Delaware and Southern Delaware also denies that it was in any way negligent or breached any contract pertaining to this matter. As to the remaining allegations contained therein, Southern Delaware is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.,

8 Answering paragraph 8 of the Third-Party Complaint, Southern Delaware is advised that the allegations contained therein constitute conclusions of law to which it need not respond.

NEGATIVE AND AFFIRMATIVE DEFENSES

9. Boat America's Third-Party Complaint fails to state a cause of action upon which relief can be granted

10 Boat America's Third-Party Complaint is barred by the doctrine of laches.

11.. Boat America's Third-Party Complaint is barred by the doctrines of waiver and estoppel..

12 Boat America's Third-Party Complaint is barred by the contributory negligence of Boat America and/or Plaintiffs..

13.. Southern Delaware is entitled to contribution due to the negligence or other fault of the other patties to this action.

14. If Plaintiffs were injured as alleged, such damage was caused by a party or parties other than Southern Delaware and over whom Southern Delaware had no control, without any negligence of Southern Delaware contributing thereto.

15.. Defendant Delaware Bay Launch Service, Inc. is not the sub-agent of Southern Delaware as to the License/Service Agreement entered into between Southern Delaware and Boat America

16. the alleged damages complained of were not proximately caused by any breach, negligence, or culpable conduct on the part of Southern Delaware

17 Plaintiffs and Boat America have failed to mitigate their damages, if any.

WHEREFORE, Ihird-Party Defendant Southern Delaware prays that Defendant Boat America Corporation's Third-Party Complaint be dismissed as to them, that they be awarded attorneys' fees, costs, and disbursements, and that this Court grant such other and further relief as the justice of this cause may require

/s/

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